

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

JOCELYN McCORKLE,
Plaintiff,

v.

**CBOCS, INC. d/b/a CRACKER
BARREL OLD COUNTRY STORE,**
Defendant.

§
§
§
§
§
§
§
§

CIVIL ACTION NO.

DEFENDANT’S NOTICE OF REMOVAL

Pursuant to 28 U.S.C. 1332, 1441 and 1446, Defendant CBOCS Texas, LLC, incorrectly named as CBOS, Inc. d/b/a Cracker Barrel Old Country Store (“Defendant”) files this Notice of Removal from the 96th Judicial District Court of Tarrant County, Texas, to the United States District Court for the Northern District of Texas, Fort Worth Division, and respectfully states the following:

State Court Action

1. On July 27, 2021, Plaintiff Jocelyn McCorkle (“Plaintiff”) initiated this action by filing Plaintiff’s Original Petition (the “Petition”), Cause No. 096-326857-21, in the 96th Judicial District Court of Tarrant County, Texas (the “State Court Action”) against Defendant. Plaintiff asserts claims of negligence and premises liability against Defendant. Plaintiff demanded a jury trial in the state court action.

Timeliness of Removal

2. Defendant was served with Plaintiff’s Petition on July 28, 2021.
3. Defendant files this Notice of Removal within thirty days after receipt of service of

Plaintiff's Petition. Thus, pursuant to 28 U.S.C. 1446(b)(3), Defendant's removal of this action is timely.

Grounds for Removal

4. Pursuant to 28 U.S.C. 1441(a), the State Court Action may be removed to this Court because this Court has original jurisdiction of the claims and parties in the State Court Action under 28 U.S.C. 1332. The United States District Court for the Northern District of Texas, Fort Worth Division, is the proper venue for this action because it presides over the district and division within which the State Court Action was filed (Tarrant County). *See* 28 U.S.C. 1441(a).

5. Plaintiff is a resident and citizen of the State of Texas. *See* Plaintiff's Original Petition attached hereto as Exhibit A-2.

6. Defendant is a Tennessee corporation with its principal place of business in Tennessee. Thus, Defendant is a citizen of Tennessee.

7. Complete diversity of citizenship therefore exists between Plaintiff and Defendant.

8. The amount in controversy exceeds \$75,000, excluding interest, costs and attorney's fees. *See* Plaintiff's Original Petition, attached hereto as Exhibit A-2, indicating that the action involves up to \$250,000.00.

Required Documents

9. The following documents are attached in accordance with LR81:

- a. A completed civil cover sheet;
- b. A supplemental civil cover sheet; and
- c. A notice of removal with a copy of each of the following:
 - i. an index of all documents that clearly identifies each document and

indicates the date the document was filed in state court, attached hereto as Exhibit A;

- ii. a copy of the docket sheet in the state court action, attached hereto as Exhibit A-1;
- iii. each document filed in the state court action, except discovery material, attached hereto as Exhibits A-2 through A-5; and
- iv. a separately signed certificate of interested persons.

Notice of Removal

10. Pursuant to 28 U.S.C. 1446(d), written notice of the filing of this Notice of Removal to all adverse parties and a true and correct copy of this Notice of Removal will be filed with the Clerk of the 96th Judicial District Court of Tarrant County, Texas.

Request for Relief

11. Defendant requests the following relief:
- a. That the Court make such orders, if any, and take such action, if any, as may be necessary in connection with the removal of the State Court Action to this Court; and
 - b. Such other and further relief, both general and special, at law and in equity, to which Defendant may show itself justly entitled.

Respectfully submitted,

COX P.L.L.C.

By: /s/ Lindsay G. Gorbach
Lindsay G. Gorbach
Texas Bar No. 24059839
Gregory R. Brenner
Texas Bar No. 24027052

8144 Walnut Hill Lane, Suite 1090
Dallas, Texas 75231
(870) 926-2225
(469) 340-1884 (*facsimile*)
lgorbach@coxpllc.com
gbrenner@coxpllc.com

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing document was served on the following counsel of record via electronic transmission, on August 27, 2021:

Josh W. Alexander
Robert B. Moss
J. ALEX LAW FIRM, P.C.
13601 Preston Road
West Tower, Suite 600W
Dallas, Texas 75240

/s/ Lindsay G. Gorbach
Lindsay G. Gorbach